

Appendix T-5

MEGHAN KELLY, ESQ.

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The Honorable John G Roberts, Jr.

Chief Justice of the United States

Chairman, Judicial Conference of the United States

Supreme Court of the United States

1 First Street, NE

Washington, DC 20543

Clerk of Court of the United States Supreme Court

Electronic Copies via E-mail to opposing counsel in 2 cases I seek to appeal

Zi-Xiang Shen, Esq. at zi-xiang.shen@delaware.gov

and supremectbriefs@usdoj.gov

RE: Please refrain from addressing Senator Whitehouse's publicized disciplinary complaint against Justice Alito as it interferes with my case and controversy as to deprive me of the opportunity to petition this court in two cases regarding the same issue

September 6, 2023

Dear Honorable Chief Justice Roberts:

I request you abstain from addressing the complaint submitted to you attached hereto against Justice Alito by Senator Whitehouse dated 9/4/2023. I note, Justice Kagan also spoke for regulations in the news, and all of the arguments contained herein may also be twisted to be used against her. While adversary opinions are not proper by either of these two justices, they are without authority of the rule of law, mere opinions. Disciplinary complaints are an improper means to clarify issues under the Constitution.

It is a trap your honor to compel you to eliminate what is not yours to barter away, the 5th Amendment right against self-incrimination by compelled incrimination of federal judges and more importantly the 5th Amendment right to a fair and impartial federal judiciary, as applied to me your honor as a unique party of one with special arguments on the record in two cases I seek

to appeal before this United States Supreme Court, and of all citizens from a no longer free and independent but partial judiciary to whomever regulates its seats through self-regulation or third party regulation.

I am quite distraught that Chief Justice Roberts may answer Senator Whitehouse's petition hastily as to deprive me of a fair opportunity to make arguments in cases and controversies in two matters Kelly v Swartz, No 23A10,0 and Kelly v US Eastern District of PA, No 23A144 ("Applications"). I apprised this Court in my Applications that I intended to argue the issue as to whether the US Supreme Court should only be corrected within the purview of the Constitutional limits of 1. cases and controversies and 2. Impeachment.

I am so scared the entire court may succumb to public fickle pressure to eliminate Constitutional rights by allowing regulation of a no longer impartial court. I believe this will expedite the scheme to eliminate the courts down the line that restrains entities from enslaving, oppressing, killing, stealing and destroying human life, liberty and health to sustain power, position, profit under the guise of sustaining the world.

Your Honor I ask you please grant me the opportunity to exercise the First Amendment right to petition on this issue in two cases where I argue the Federal courts and federal judges may only be corrected within the purview of the Constitutional limits of 1. Cases and controversies and 2. Impeachment, without vitiating by hastily responding to Whitehouse.

Whitehouse makes frivolous arguments concerning the Judicial Conduct and Disability Act which do not apply to the US Supreme Court.

I also find it quite hypocritical that Senator Whitehouse submitted his complaint to the press in many multiple forums while he seeks to punish a Justice for speaking out on a matter of public importance to the press. (*See, Bible Matthew 7:3-5*)

The Courts should not to be used by the Congressmen or presidents to gain partial political favor by such horse and pony shows under the guise of creating impartiality. It makes a mockery of the practice of law. As a Christian with unique standing based on justice in the courts as an exercise of my religious belief, I respectfully request you do not entertain such foolish arguments. See, the following Bible verses, *Amos 5:15* (Justice in the courts is a command); See, *Matthew 23:23* (Justice, and mercy are greater laws, preempting laws than laws relating to money or material things); See, *2 Timothy 2:23* (“Don’t have anything to do with foolish and stupid arguments, because you know they produce quarrels.”)

The Judiciary is the only branch that gives us freedom by giving us democracy in our democratic republic. The courts protect individuals and individual exercise of liberty from being sacrificed to the conformity of the perceived majority through the vote.

The other two branches give us a Republic in our democratic republic and by nature are partial and politically biased requiring ethical standards which are not required to tame the impartial courts.

I should be afforded the opportunity to make such arguments in actual cases and controversies in order that my liberties, license and life is not sacrificed for the whims of the masses or the majority in two cases without Congressional overreach vitiating my rights.

Whitehouse’s argument, “the bill would update judicial ethics laws to ensure the Supreme Court complies with ethical standards at least as demanding as in other branches,” overlooks the purpose of restraining inherently partial branches as opposed to maintaining the impartial branch by maintaining its independence of the fickle fads of the masses.

Congress does not tell us what the law is as Whitehouse appears to seek to do in violation of separation of powers. “It is emphatically the province and duty of the judicial department to

say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule.” *Marbury v. Madison*, 5 U.S. 137, 177, 2 L. Ed. 60 (1803); also see,

Further, there may be no active alleged case as Whitehouse alleges as I seek this Court to rule in two different cases that the US Supreme Court may not be disciplined outside the purview of the Constitution. Should Whitehouse seek to pass laws regulating this Court they should be rendered void as outside the scope of his and Congress’s Constitutional power or jurisdiction.

This Court in *Ex Parte McCordle*, 74 U.S. 506 (1868) held:

“The appellate jurisdiction of this court is conferred by the Constitution, and not derived from acts of Congress; but is conferred "with such exceptions, and under such regulations, as Congress may make;" and, therefore, acts of Congress affirming such jurisdiction, have always been construed as excepting from it all cases not expressly described and provided for.”

“By words of the Constitution, equally plain, that judicial power is vested in one Supreme Court. This court, then, has its jurisdiction directly from the Constitution, not from Congress.” The jurisdiction being vested by the Constitution alone, Congress cannot abridge or take it away.” *Id* at 507.

It is not fair that Congress may be above the law, and separation of powers issues, and eliminate my right to petition the court in a case or controversy about the same issue where my remedy may be lost. *Marbury v. Madison*, 5 U.S. 137, 147 (1803) (“It is a settled and invariable principle, that every right, when withheld, must have a remedy, and every injury its proper redress”)

Please abstain from addressing Whitehouse’s complaint with a mere advisory opinion. It may be used against you to discredit or impeach you down the line. Please consider giving a real opinion on the issue in my case, even if you disagree with me.

I copy opposing counsel in two cases. The Court's answer in my cases will have the force of law as opposed to fickle advisory opinions without cases or controversies.

Thank you for your time and consideration.

September 6, 2023

Respectfully Submitted,
/s/Meghan Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939,
(302) 493-6693
meghankellyesq@yahoo.com,
US Supreme Court Number 283696

Under Religious objection I declare, affirm that the foregoing statement is true and correct.

Dated: 9/6/23

(printed)

(signed)

Enclosures to

The Honorable Samuel A. Alito, Jr., Associate Justice, Supreme Court of the United States

The Honorable Clarence Thomas, Associate Justice, Supreme Court of the United States

The Honorable Sonia Sotomayor, Associate Justice, Supreme Court of the United States

The Honorable Elena Kagan, Associate Justice, Supreme Court of the United States

The Honorable Neil M. Gorsuch, Associate Justice, Supreme Court of the United States

The Honorable Brett Kavanaugh, Associate Justice, Supreme Court of the United States

The Honorable Amy Coney Barrett, Associate Justice, Supreme Court of the United States

The Honorable Ketanji Brown Jackson, Associate Justice, Supreme Court of the United States

United States Senate
WASHINGTON, DC 20510

September 4, 2023

The Honorable John G. Roberts, Jr.
Chief Justice of the United States
Chairman, Judicial Conference of the United States
Supreme Court of the United States
1 First Street NE
Washington, D.C. 20543

Dear Chief Justice/Chairman Roberts:

I write to lodge an ethics complaint regarding recent public comments by Supreme Court Justice Samuel Alito, which appear to violate several canons of judicial ethics, including standards the Supreme Court has long applied to itself.

I write to you in your capacity both as Chief Justice and as Chair of the Judicial Conference because, unlike every other federal court, the Supreme Court has no formal process for receiving or investigating such complaints, and asserted violations by justices of relevant requirements have sometimes been referred to the Judicial Conference and its committees. I include all justices in carbon copy because I am urging the Supreme Court to adopt a uniform process to address this complaint and others that may arise against any justice in the future.

The recent actions by Justice Alito present an opportunity to determine a mechanism for applying the Judicial Conduct and Disability Act to justices of the Supreme Court. Nothing prohibits the Court or the Judicial Conference from adopting procedures to address complaints of misconduct. The most basic modicum of any due process is fair fact-finding; second to that is independent decision-making.

Background

Some of the background facts here were related by members of the Senate Judiciary Committee who signed a letter to you dated August 3, 2023.¹ As that letter explains, the *Wall Street Journal* on July 28, 2023, published an interview with Justice Alito conducted by David Rivkin and James Taranto. Justice Alito's comments during that interview give rise this complaint.² The interview had the effect, and seemed intended, to bear both on legislation I authored and on investigations in which I participate.

During the interview, Justice Alito stated that “[n]o provision in the Constitution gives [Congress] the authority to regulate the Supreme Court—period.”³ Justice Alito's comments

¹ Letter from Sen. Richard J. Durbin et al., Senate Committee on the Judiciary, to Hon. John G. Roberts Jr., Chief Justice of the United States (Aug. 3, 2023).

² David B. Rivkin & James Taranto, Opinion, *Samuel Alito, the Supreme Court's Plain-Spoken Defender*, WALL ST. J. (July, 28, 2023), https://www.wsj.com/articles/samuel-alito-the-supreme-courts-plain-spoken-defender-precedent-ethics-originalism-5e3e9a7?st=4765zed61auy3j2&reflink=desktopwebshare_permalink.

³ *Id.*

appeared in connection to my Supreme Court Ethics, Recusal, and Transparency Act, which the Senate Judiciary Committee had advanced just one week before the publication of this interview.⁴ That bill would update judicial ethics laws to ensure the Supreme Court complies with ethical standards at least as demanding as in other branches of government.

Justice Alito's comments echoed legal arguments made to block information requests from the Senate Judiciary Committee and the Senate Finance Committee, on both of which I serve. Those arguments assert (in my view wrongly) that our constitutional separation of powers blocks any congressional action in this area, which in turn is asserted (also wrongly, in my view) to block any congressional investigation. Sound or unsound, it is their argument against our investigations, as reflected in the letter appended hereto. The subjects of these committee investigations are matters relating to dozens of unreported gifts donated to justices of the Supreme Court.

As the author of the bill at issue, and as the only Senator serving in the majority on both investigating committees, I bring this complaint.

Improper Opining on a Legal Issue that May Come Before the Court

On the Senate Judiciary Committee, we have heard in every recent confirmation hearing that it would be improper to express opinions on matters that might come before the Court. In this instance, Justice Alito expressed an opinion on a matter that could well come before the Court.

That conduct seems indisputably to violate the Code of Conduct for United States Judges. Canon 1 emphasizes a judge's obligation to "uphold the integrity and independence of the judiciary"; Canon 2(A) instructs judges to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary"; and Canon 3(A)(6) provides that judges "should not make public comment on the merits of a matter pending or impending in any court." These canons help ensure "the integrity and independence of the judiciary" by requiring judges' conduct to be at all times consistent with the preservation of judicial impartiality and the appearance thereof.⁵

The Court's *Statement of Ethics Principles and Practices*, "to which all of the current members of the Supreme Court subscribe,"⁶ concurs. That document makes clear that, before speaking to the public, "a Justice should consider whether doing so would create an appearance of impropriety in the minds of reasonable members of the public. There is an appearance of impropriety when an unbiased and reasonable person who is aware of all relevant facts would doubt that the Justice could fairly discharge his or her duties."⁷ These same precepts are also enforced through the federal recusal statute, which requires all federal justices and judges to recuse themselves from any matter in which their impartiality could reasonably be questioned.⁸

⁴ *Id.*

⁵ Code of Conduct for U.S. Judges, Canon 1, Commentary.

⁶ Letter from John G. Roberts, Jr., Chief Justice of the United States, to Sen. Richard J. Durbin, Chairman, Senate Committee on the Judiciary (Apr. 25, 2023).

⁷ See *Statement on Ethics Principles and Practices* at 2:8-15, 2:19.

⁸ See 28 U.S.C. § 455(a), (b)(1).

Making public comments assessing the merits of a legal issue that could come before the Court undoubtedly creates the very appearance of impropriety these rules are meant to protect against. As Justice Kavanaugh pointed out, prejudging an issue in this manner is “inconsistent with judicial independence, rooted in Article III,” because “litigants who come before [the Court] have to know we have an open mind, that we do not have a closed mind.”⁹

Justice Alito and every other sitting member of the Supreme Court told the Senate Judiciary Committee during their confirmation hearings that it would be (in the words of Justice Alito) “improper” and a “disservice to the judicial process” for a Supreme Court nominee to comment on issues that might come before the Court.¹⁰ Justice Thomas said that such comments would at minimum “leave the impression that I prejudged this issue,” which would be “inappropriate for any judge who is worth his or her salt.”¹¹ Justice Kagan echoed those comments, telling the Committee it would be “inappropriate” for her to “give any indication of how she would rule in a case”—even “in a somewhat veiled manner.”¹² And Justice Kavanaugh explained that nominees “cannot discuss cases or issues that might come before them.” He continued: “As Justice Ginsburg said, no hints, no forecasts, no previews.”¹³

Justice Gorsuch made clear during his confirmation hearing that this rule applies to the precise topic on which Justice Alito opined to the *Wall Street Journal*:

Senator Blumenthal. Thank you. I also want to raise a question, talking about court procedure, relating to conflicts of interest and ethics. I think you were asked yesterday about the proposed ethics rules that have been applied to your court—

Judge Gorsuch. Yes.

Senator Blumenthal: [continuing]. To the appellate court, to the District Court, but not to the Supreme Court. Would you view such legislation as a violation of the separation of powers?

Judge Gorsuch. Senator, I am afraid I just have to respectfully decline to comment on that because I am afraid that could be a case or controversy, and you can see how it might be. I can understand Congress’ concern and interest in this area. I understand that. But I think the proper way to test that question is the prescribed process of legislation and litigation.¹⁴

⁹ Confirmation Hrg. on the Nomination of Hon. Brett M. Kavanaugh to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary, 115th Cong., at 123 (Sept. 5, 2018).

¹⁰ Confirmation Hrg. on the Nomination of Hon. Samuel Alito to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary, 109th Cong., at 517, 554 (Jan. 11, 2006).

¹¹ Confirmation Hrg. on the Nomination of Hon. Clarence Thomas to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary, 102d Cong., at 180 (Sept. 11, 1992); Confirmation Hrg. on the Nomination of Hon. Clarence Thomas to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary, 102d Cong., at 173 (Sept. 10, 1992).

¹² Confirmation Hrg. on the Nomination of Elena Kagan to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary, 111th Cong., at 80 (June 29, 2010).

¹³ Kavanaugh Hrg., *supra* note 9, at 123.

¹⁴ Confirmation Hrg. on the Nomination of Hon. Neil Gorsuch to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary, 115th Cong., at 334 (Mar. 22, 2017).

You, Justice Sotomayor, and Justice Barrett each expressly cited the canons of judicial ethics as the source of a nominee's obligation to refuse to comment on such matters.¹⁵ There seems to be no question that Justice Alito is bound by, and that his opining violated, these principles.¹⁶

Improper Intrusion into a Specific Matter

These principles apply broadly to any opining, on any issue that might perhaps come before the Court. But here it was worse; it was not just general opining, it was opining in relation to a specific ongoing dispute. The quote at issue in the article—"No provision in the Constitution gives [Congress] the authority to regulate the Supreme Court"—directly follows a mention of my judicial ethics bill. Justice Alito's decision to opine publicly on the constitutionality of that bill may well embolden legal challenges to the bill should it become law. Indeed, his comments encourage challenges to all manner of judicial ethics laws already on the books.

Justice Alito's opining will also fuel obstruction of our Senate investigations into these matters. To inform its work on my bill and other judicial ethics legislation, and oversee the performance of the statutory Judicial Conference in this arena, the Senate Judiciary Committee is investigating multiple reports that Supreme Court justices have accepted and failed to disclose lavish gifts from billionaire benefactors.¹⁷ Separately, the Senate Finance Committee is investigating the federal tax considerations surrounding the billionaires' undisclosed gifts to Supreme Court justices.¹⁸ Both committees' inquiries have been stymied by individuals asserting that Congress has no constitutional authority to legislate in this area, hence no authority to investigate. Justice Alito's public comments prop up these theories.¹⁹

As the author of the bill in question and as a participant in the related investigations, I feel acutely the targeting of this work by Justice Alito, and consider it more than just misguided or accidental general opining. It is directed to my work.

¹⁵ See *Confirmation Hrg. on the Nomination of John G. Roberts, Jr. to be Chief Justice of the United States Before the Sen. Comm. on the Judiciary*, 109th Cong., at 243 (Sept. 13, 2005) (citing Canon 3(A)(6) of the Code of Conduct for United States Judges); *Confirmation Hrg. on the Nomination of Hon. Sonia Sotomayor to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary*, 111th Cong., at 109 (July 14, 2009) (citing American Bar Association "rule on Code of Conduct"); *Barrett Confirmation Hearing, Day 2, Part 1*, C-SPAN Video, at 51:37–51:48 (Oct. 13, 2020) (citing "canons of judicial conduct").

¹⁶ Indeed, another member of the Court has expressed how seriously federal judges and justices take these statements to the Judiciary Committee. See *Kavanaugh Hrg.*, *supra* note 9, at 123 (statement of Judge Kavanaugh) ("[B]elieve me, judges do feel bound by what they said to this Committee.").

¹⁷ See, e.g., Letter from Sen. Richard J. Durbin, et al., Senate Committee on the Judiciary, to Harlan Crow (May 8, 2023),

<https://www.judiciary.senate.gov/imo/media/doc/May%208%202023%20letter%20to%20Harlan%20Crow%2016.pdf>.

¹⁸ See, e.g., Letter from Sen. Ron Wyden, Chairman, Senate Committee on Finance, to Harlan Crow (Apr. 24, 2023), <https://www.finance.senate.gov/imo/media/doc/Letter%20from%20Chairman%20Wyden%20to%20Harlan%20Crow%204.24.23.pdf>.

¹⁹ See, e.g., Letter from Harlan Crow to Sen. Ron Wyden, Chairman, Senate Committee on Finance (May 8, 2023), <https://s3.documentcloud.org/documents/23872250/harlan-crow-5-8-2023-letter-to-senate-finance.pdf>; Letter from Harlan Crow to Sen. Richard J. Durbin, Chairman, Senate Committee on the Judiciary (May 22, 2023), <https://s3.documentcloud.org/documents/23822173/harlan-crow-attorney-letter-to-senate-judiciary-committee.pdf>.

Improper Intrusion into a Specific Matter at the Behest of Counsel in that Matter

Compounding the issues above, Attorney David Rivkin was one of the interviewers in the *Wall Street Journal* piece, and also a lawyer in the above dispute. This dual role suggests that Justice Alito may have opined on this matter at the behest of Mr. Rivkin himself. Bad enough that a justice opines on some general matter that may come before the Court; worse when the opining brings his influence to bear in a specific ongoing legal dispute; worse still when the influence of a justice appears to have been summoned by counsel to a party in that dispute.

The timeline of the *Wall Street Journal* interview suggests that its release was coordinated with Mr. Rivkin's efforts to block our inquiry. Mr. Rivkin's interview with Justice Alito was reportedly conducted in "early July" 2023.²⁰ On July 11, Senate Judiciary Committee Chair Durbin and I sent a letter to Mr. Rivkin's client inquiring about undisclosed gifts and travel provided to justices.²¹ On July 20, the Senate Judiciary Committee voted to advance my judicial ethics bill mentioned above. (Notably, the Rivkin/Alito Congress-has-no-authority argument fared poorly in the committee that day, with no Republican rising to rebut the arguments against it.) On July 25, Mr. Rivkin by letter refused to provide the requested information on the purported ground that "any attempt by Congress to enact ethics standards for the Supreme Court would falter on constitutional objections."²² That response, appended hereto, was instantly published in *Fox News*.²³ Three days later, on July 28, the *Wall Street Journal* editorial page published the supportive opining from Justice Alito.²⁴

²⁰ Rivkin & Taranto, *supra* note 2.

²¹ Letter from Sens. Sheldon Whitehouse & Richard J. Durbin, Senate Committee on the Judiciary, to Leonard Leo (July 11, 2023).

²² Letter from David B. Rivkin, Jr. to Sens. Sheldon Whitehouse & Richard J. Durbin, Senate Committee on the Judiciary (July 25, 2023).

²³ Andrew Mark Miller, *Conservative activist rejects Senate Dem demand for help in Supreme Court probe: 'Political retaliation'*, FOX NEWS (July 25, 2023), <https://www.foxnews.com/politics/conservative-activist-rejects-senate-dem-demand-help-supreme-court-probe-political-retaliation>.

²⁴ Separately, Mr. Rivkin is also counsel of record in a case the Supreme Court recently agreed to hear, *see Moore v. United States*, No. 22-800—a matter that presents distinct ethical issues, including possible conflicts of interest, that should also be addressed. Questions about about the extent of private access Justice Alito has afforded Mr. Rivkin, who has appeared before the Court numerous times, particularly while Mr. Rivkin's petition for a writ of *certiorari* was pending in *Moore*. Mr. Rivkin's efforts in *Moore* have been publicly supported by the *Wall Street Journal* Editorial Board, which has approved three pieces written by or involving interviews with Justice Alito in four months—including a piece by Justice Alito "prebutting" reporting on the non-disclosed gifts that Leonard Leo arranged for Justice Alito to receive. *See* Editorial Bd., Opinion, *Is a U.S. Wealth Tax Constitutional?*, WALL ST. J. (June 14, 2023), <https://www.wsj.com/articles/wealth-tax-ninth-circuit-moore-v-u-s-charles-and-kathleen-moore-supreme-court-constitution-6cd1ba92>; James Taranto & David B. Rivkin Jr., Opinion, *Justice Samuel Alito: 'This Made Us Targets of Assassination'*, WALL ST. J. (Apr. 28, 2023), <https://www.wsj.com/articles/justice-samuel-alito-this-made-us-targets-of-assassination-dobbs-leak-abortion-court-74624ef9>; Samuel A. Alito Jr., Opinion, *Justice Samuel Alito: ProPublica Misleads Its Readers*, WALL ST. J. (June 20, 2023), https://www.wsj.com/articles/propublica-misleads-its-readers-alito-gifts-disclosure-alaska-singer-23b51eda?mod=hp_opin_pos_3#exrecs_s; Editorial Bd., Opinion, *A Wealth-Tax Watershed for the Supreme Court*, WALL ST. J. (June 27, 2023), <https://www.wsj.com/articles/supreme-court-moore-v-u-s-wealth-tax-patrick-bumattay-ninth-circuit-83610ed>.

Improper Intrusion into a Specific Matter Involving an Undisclosed Personal Relationship

On top of all this, the dispute upon which Justice Alito opined involves an individual with whom Justice Alito has a longstanding personal and political relationship. As my colleagues and I pointed out in our August 3 letter, “Mr. Rivkin is counsel for Leonard Leo with regard to [the Judiciary] Committee’s investigation into Mr. Leo’s actions to facilitate gifts of free transportation and lodging that Justice Alito accepted from Paul Singer and Robin Arkley II in 2008.”²⁵ Mr. Leo was Justice Alito’s companion on the luxurious Alaskan fishing trip in 2008 and facilitated the gifts to the justice of free transportation and lodging. Two years earlier, Mr. Leo’s political organization “had run an advertising campaign supporting Alito in his confirmation fight, and Leo was reportedly part of the team that prepared Alito for his Senate hearings.”²⁶

The timing of Justice Alito’s opining suggests that he intervened to give his friend and political ally support in his effort to block congressional inquiries. It appears that Justice Alito (a) opined (b) on a specific ongoing dispute (c) at the behest of counsel in that dispute (d) to the benefit of a personal friend and ally. Each is objectionable, and appears to violate, *inter alia*, Canon 2(B) of the Code of Conduct for United States Judges, which provides, “A judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others nor convey or permit others to convey the impression that they are in a special position to influence the judge.”

Improper Use of Judicial Office for Personal Benefit

The final unpleasant fact in this affair is that Justice Alito’s opining, apparently at the behest of his friend and ally’s lawyer, props up an argument being used to block inquiry into undisclosed gifts and travel received by Justice Alito. At the end, Justice Alito is the beneficiary of his own improper opining. This implicates Canon 2(B) strictures against improperly using one’s office to further a personal interest: a justice obstructing a congressional investigation that implicates his own conduct.

The Senate Judiciary Committee’s investigation encompasses reports that Justice Alito accepted but did not disclose gifts of travel and lodging valued in the tens of thousands of dollars. Further investigation may reveal additional information that Justice Alito would prefer not come to light. The facts as already reported suggest that Justice Alito likely violated the financial disclosure requirements of the Ethics in Government Act.²⁷ Perhaps Justice Alito should also have recused himself as required by the recusal statute in a 2014 case involving a company owned by Paul Singer, one of the billionaires who attended and paid for his Alaskan fishing vacation.²⁸ Justice Alito’s public suggestion that these laws are unconstitutional as applied to the Supreme Court, and that Congress lacks authority to amend them or investigate their implementation or enforcement, appears designed to impede Senate efforts to investigate these and other potential abuses.

²⁵ Letter from Sen. Richard J. Durbin et al., *supra* note 1.

²⁶ Justin Elliott, Joshua Kaplan, & Alex Mierjeski, *Justice Samuel Alito Took Luxury Fishing Vacation With GOP Billionaire Who Later Had Cases Before the Court*, PROPUBLICA (June 20, 2023), <https://www.propublica.org/article/samuel-alito-luxury-fishing-trip-paul-singer-scotus-supreme-court>.

²⁷ See 5 U.S.C. §§ 13101, *et seq.*

²⁸ Elliott, Kaplan, & Mierjeski, *supra* note 26; see 28 U.S.C. § 455.

* * *

Conclusion

In the worst case facts may reveal, Justice Alito was involved in an organized campaign to block congressional action with regard to a matter in which he has a personal stake. Whether Justice Alito was unwittingly used to provide fodder for such interference, or intentionally participated, is a question whose answer requires additional facts. The heart of any due process is a fair determination of the facts. Uniquely in the whole of government, the Supreme Court has insulated its justices from any semblance of fair fact-finding. The obstructive campaign run by Mr. Rivkin and Mr. Leo, fueled by Justice Alito's opining, appears intended to prevent Congress from gathering precisely those facts.

As you have repeatedly emphasized, the Supreme Court should not be helpless when it comes to policing its own members' ethical obligations. But it is necessarily helpless if there is no process of fair fact-finding, nor independent decision-making. I request that you as Chief Justice, or through the Judicial Conference, take whatever steps are necessary to investigate this affair and provide the public with prompt and trustworthy answers.

Sincerely,



SHELDON WHITEHOUSE
Chairman
Senate Judiciary Subcommittee on
Federal Courts, Oversight, Agency Action, and
Federal Rights

Enclosure

- cc: The Honorable Samuel A. Alito, Jr., Associate Justice, Supreme Court of the United States
The Honorable Clarence Thomas, Associate Justice, Supreme Court of the United States
The Honorable Sonia Sotomayor, Associate Justice, Supreme Court of the United States
The Honorable Elena Kagan, Associate Justice, Supreme Court of the United States
The Honorable Neil M. Gorsuch, Associate Justice, Supreme Court of the United States
The Honorable Brett Kavanaugh, Associate Justice, Supreme Court of the United States
The Honorable Amy Coney Barrett, Associate Justice, Supreme Court of the United States
The Honorable Ketanji Brown Jackson, Associate Justice, Supreme Court of the United States
The Honorable Roslynn R. Mauskopf, Secretary, Judicial Conference of the United States

Exhibits on an Agenda to

Eliminate people in the law to eliminate the law to
eliminate the government that restrains entities from
getting as much as they can for as little unrestrained from
the just rule of law from oppressing, killing, stealing or
destroying human life, liberty or health for the bottom line

CHANDLER FUNERAL HOME
302.478.7100



RICHARD KURT GOLL
AGE: 76 • FENWICK ISLAND
Richard Kurt Goll, age 76, of Fenwick Island died Sunday, June 12, 2016 at Atlantic General Hospital in Berlin. He was born in Havre de Grace, MD and was the son of the late Eugene and Elsa (Ziegler) Goll.

He was a respected attorney for over 50 years in Wilmington Delaware, Sussex County Delaware and Havre de Grace, Maryland.

He is survived by his wife, Nancy M. Goll of Fenwick Island; a son, Richard K. Goll Jr. and his wife Jennifer of Selbyville; a daughter, Cynthia G. Smith of Severna Park, MD; two brothers, Eugene Goll of Easton and Robert Goll of Havre de Grace, MD; a sister, Nancy Gibbons of Westminster, MD; two grandchildren; Carson Smith and Parker Smith.

Services will be held at a later date.

In lieu of flowers, donations in his memory may be sent to the American Diabetes Association (diabetes.org) or to the Sepsis Alliance (sepsis.org).

Condolences may be sent by visiting www.bishophastingsfh.com

LENOX GRADUATED & SISTERS-III
law.

Lenox graduated from Howard High School and Lincoln University. He received an honorable discharge from the U.S. Army, serving in WWII.

Lenox retired after working over 40 years with the U.S. Post Office. His friends there often called him Stone-wall Jackson.

Lenox was a member of the Monday Club, Inc., and he was inducted into the Delaware Afro-American Sports Hall of Fame in April 2001.

Lacey loved Photography and listening to Jazz.

He was a well-known figure in the Wilmington Community and will be sorely missed.



DESMOND JONES
AGE: 65 • NEW CASTLE, DE

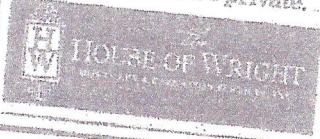
Mr. Jones departed this life June 02, 2016. Funeral 10AM, Sat., June 18th at Cathedral of Fresh Fire, 2900 Northeast Blvd., Wilm., DE; viewing 8-9:45am only. Burial, Gracelawn Memorial Park.

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Faye Ellen Grant. He continued to live and work in the area until his death.

Clarence is survived by his son, Clarence Jarrett, Jr.; three grandchildren, Isaiah, Ellis and Cameron; sisters Linda (Walter) Nickerson, Brenda (Robert) Young, and Flora Jarret; two brothers, Fred (Valerie) Jarrett and Earnest Daniels, Jr. and a host of nieces, nephew, relatives and friends.

Viewing will be held at The House of Wright Mortuary, 208 E. 5th St., Wilm., DE, Saturday, June 18 from 10:00 am to 11:00 am. Celebration of Life will begin at 11:00 am. Interment will be private.



IN MEMORIAM

The Family Of
**JOHN L.
(JOE LOUIS)
BAISE**

Would like to thank everyone for all the acts of kindness shown to us during our bereavement. You may have sent a card, gave monetary or food donation, volunteered your time or talent, it was greatly appreciated. God bless you all.

Loretta Baise and Family

BURIAL NOTICES

SMITH, JUDY
Judy Smith, 67, of S. DuPont Blvd., Smyrna, died on 6/11/2016.

ANY relatives or friends are requested to immediately contact Joseph Kelly at Chandler Funeral Homes at office (302-478-7100) to claim the remains.

do delawareonline

Did Goll

My friend who died

His wife died a few years later.



He has

a son who was out of work.



He helped him.

Letters

Continued from page A15

in criminal prosecution. While there will always be a need for fraud investigation, I will advocate for fraud prevention and actively participate in training that supports good fiscal operations for the various entities that collect and receive state funds.

My goals are to ensure timely completion of audit mandates; to support the elimination of significant noncompliance, fraud and waste based on clearly defined criteria; to perform follow-up of prior unresolved findings and recommendations; and to provide program evaluation and process recommendations that support government transparency and good government.

On a personal note, I live in Dover with my husband, Jerry, who is retired from 20 years of active-duty service in the Air Force. He currently serves as the union president for the American Federation of Government Employees,

Local 1709, at Dover Air Force Base. We have three children and four grand children.

In the end, no amount of technology, contracting or delegating that can replace experience, leadership and management specific to the field of state auditing and investigating. As you research the candidates, please consider the need for state auditing qualifications and experience prior to the upcoming elections.

I humbly ask for your vote in the Thursday, Sept. 6, primary.

Kathleen Davies
Candidate for Delaware Auditor of Accounts

Reader offers idea to lessen strife

Editor:

I would like to share with you a "quick fix" to the problem of the political divide engulfing this country; if not the world...

Rewrite the Civil Rights Act of 1964

Coastal Point

with the addition of two words: "prohibits discrimination because of race, color, sex, religion, political view or national origin."

Henry R Hensel
Ocean View

Keeley responds to previous letters

Editor:

I am writing in response to a number of letters in the June 19 Coastal Point.

First, Lloyd Elling's seemingly gross misinterpretations of the Second Amendment: the NRA and President Trump's actions are viewed as preposterous positions by many of us that support our rights as citizens.

Second, Valerie Reeves' denounces President Trump's policy on the enforcement of our laws at the border. Even though he's following the same tough policies as President Obama. The very same tough policies that were overlooked by Obama's fawning media. She also mentions "due process," which I believe requires citizenship. Detention of people entering our country illegally, with or without children, is certainly necessary to protect our borders and, in the long run, our country.

Third, Diane Meyer asks for term limits while noting the immigration quagmire currently straggling our Congress. A solution to the immigration quagmire was one of President Trump's main campaign promises, but he has problems with the professional politi-

cians on both sides of the aisle with this issue.

Unfortunately, the quagmire is not limited to immigration. She has a very good point especially when she mentions our own Sen. Tom Carper, who appears to be the definition of a professional politician. Term limits would certainly be a great step toward getting things done in Washington, especially since our representatives in both parties currently seem to spend most of their efforts at getting reelected!

Fourth and last, Henry R. Hensel states that he believes that our political strife will end. I, however, do not see that happening any time soon! We do have the choice between parties where, simply put, one wants smaller government, versus one that believes bigger government is the answer. Our founding fathers feared this type situation, and it seems they were correct!

I do agree with Mr. Hensel's suggestion that we turn off the 24/7 barrage of so-called news thrown at us by the radio, TV and newspapers. But that is easier said than done, and then where would we be?

Thomas M. Keeley III
Ocean View

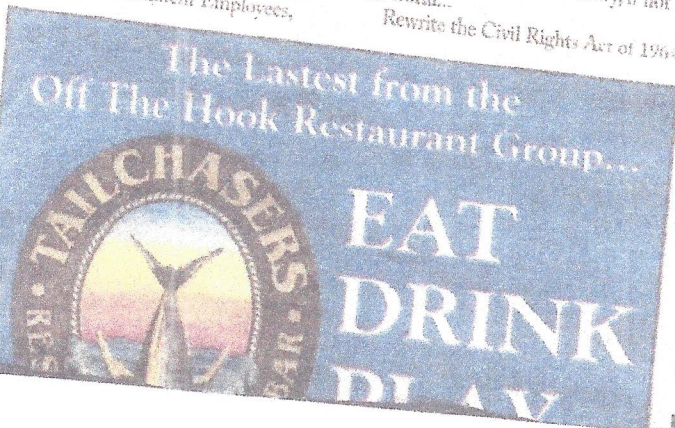
Candidate discusses 'title companies' issues

Editor:

My name is Meghan Kelly. I am an

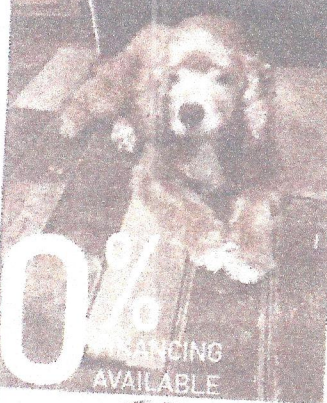
See LETTERS page A18

Article starts here



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Letters

Continued from page A16

attorney running for the House of Representatives in the 38th District, which includes Frankford, Selbyville, Ocean View, Bethany Beach and parts of Dagsboro.

One of the reasons why I am running is, two years ago, I found a problem that no one cares to fix. I care.

I found a lot of money not getting taxed by the State of Delaware relating to out-of-state real estate title insurance companies. I contacted various people and entities in an attempt to resolve the issue; however, to date, no one has addressed the problem. So, I am stepping up to confront the issue and to correct the problem.

It appears out-of-state title companies have been practicing Delaware law without a license for more than a decade. I talked with other real estate attorneys and discovered this has been a common practice for many years.

The problem arises, real estate attorneys gain work from those same title companies. So, they fear they will lose profit should they confront this misunderstanding.

The out-of-state title companies do not pay income tax in Delaware. So, the State of Delaware is not receiving income tax for this work. In addition, this has caused errors in the chain of title for deeds. So, good title may not be transferred in real estate transac-

tions if errors are not fixed. So, I sought to correct this by discussing this with the real estate section of the Bar.

Justice Holland gave me a call and offered to draft rules, but he retired.

In addition, [state Sen. Gerald] Hocker suggested we fine the title companies for exceeding the scope of their license. I think Mr. Hocker's idea is an excellent one.

I contacted legislators concerning this, but to date this problem has not been alleviated.

Thus, I strongly urge the Delaware Assembly to draft laws to clearly address this problem by giving notice to those out-of-state title companies with a license to sell title insurance the scope of the activities they may receive payment for in the State of Delaware. Should they exceed the scope, unless authorized permitted by law, fine them a specified amount of money.

The clarification will assist title companies in performing their work in accordance with Delaware Supreme Court case law. In addition, this correction will prevent the legislators from stepping on the Delaware Supreme Court's toes by discussing the unauthorized practice of law.

Thank you for your kind consideration. As a future legislator, I hope to participate in this correction, but I am running not only to win — I am running to make a positive difference in the community I grew up in and love.

Thank you for supporting me in serving you.

Meghan Kelly
Dagsboro

Steele weighs in on previous letters

Editor:

This letter is to answer three letters published June 29.

First, to Mr. Ewing: Your comments about President Trump and the crying little girl on the cover of Time magazine is flat-out wrong. That little girl was crying because she was lost for a few minutes from her family and her father found her just after that photo was taken. She was immediately reunited with her mother and father. Let's face it, when will Time magazine or you care to state the facts correctly?

Secondly, what does the Second Amendment have anything to do with illegal immigration? Maybe you are confused and do not know what the Second Amendment is about, basically, the right to bear arms. And that is what the Americans, who live along our southern border, are doing to protect themselves from armed gang members from Mexico plus the drug and human smugglers crossing the border.

You ask the question, "Whose side will you defend?" My answer: Always the Constitution! How about you?

Second, to Mr. Hansel: Thank you!

See LETTERS page A20

Out of state title companies are practicing real estate law without a license, messing up the chain of title, costing the public \$, and taking advantage of lawyers like my esteemed colleague.

Web Site <https://www.thevenusproject.com/faq/how-can-the-use-of-laws-be-eliminated/#:~:text=When%20Earth%E2%80%99s%20resources%20are%20seen%20as%20the%20common,against%20abuse%20could%20be%20designed%20into%20the%20environment>

How » How can the use of Laws be eliminated?



How can the use of Laws be eliminated?

Today we try to control human behavior by enacting laws or signing treaties without changing the physical conditions responsible for aberrant behavior. When Earth's resources are seen as the common heritage of all people, irrelevant laws and social contracts will vanish.

In a resource-based economy, social responsibility would not be a function of artificial laws or force. Safeguards against abuse could be designed into the environment. An example of this is the proposed design of cities where people have free access to resources without debt. This would eliminate theft. Such measures are not a matter of passing and enforcing laws to prevent and punish abuse. Rather, they are a means of designing the flaws out of any social venture, thus eliminating the need for many laws.

We are proposing doing away with the systems that cause corruption and human suffering in the first place. In a city with safe, clean, mass transportation, we do not need police to monitor drivers' speed, behavior at stop signs, or proper papers.

Other examples are the air and the water. Although both are necessary to our well-being and survival, there are no laws regulating how many breaths are taken per hour because we have such abundance at this time. No one monitors a gushing spring to see how much water is taken from it, although fresh water is absolutely necessary for the support of life. If it is abundant, no one monitors it.

I must emphasize that this approach to global governance has nothing in common with the present aims of an elite few to form a world government with themselves at the helm, and with the vast majority subservient to them. This newer vision of globalization empowers every person on the planet to be all they can be, without living in abject subjugation to a corporate governing body.

A society with human concern "designs out" laws and proclamations by making all things available to all people, regardless of race, color, or creed. When governments make laws, we are led to believe that these laws are made to enhance people's lives. In truth, laws are byproducts of insufficiency.

The question is, "can we grow beyond thinking that "someone" has to make decisions for us?"

A better understanding of natural law involves human's relationship to the environment, which supports all life. All of nature is subservient to natural law. Natural law cannot be violated without serious consequences to individuals or societies. Natural laws dominate all living systems. For example, without water, sun, or nutrients, plants and animals die.

An environment of scarcity, hunger, and poverty is a threat to everyone.

Shaping the Future of the Fourth Industrial Revolution

Klaus
Schwab

Founder and Executive Chairman, World Economic Forum
with Nicholas Davis

Shaping the Future of the Fourth Industrial Revolution

A Guide to Building a Better World

Klaus Schwab

With Nicholas Davis



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that not only have commercial value but also serve the public good. We must avoid the tendency of past industrial revolutions to treat the natural world as a sink for the costs of emerging technologies. This will not be easy, yet leaders have no other choice than to manage the externalities of the Fourth Industrial Revolution so unintended consequences are carried collectively rather than concentrated on vulnerable populations or, via environmental damage, on future generations. Given the fragility of the Earth's biosphere after three previous industrial revolutions, the cost of failure is simply too high.

Society and citizens

In addition to their geopolitical and environmental impacts, technological revolutions can affect the social landscape by altering the skills needed to be deemed successful. For example, the third Industrial Revolution improved the lives of knowledge workers, making them better off than the factory workers who had seen their living standards increase during the second Industrial Revolution. The famous elephant graph by economist Branko Milanović (Figure 10) shows how the distribution of global income changed between 1988 and 2008: the benefits bypassed not only the very poorest but also those around the 80th percentile globally, the lower-middle class in advanced economies. There, many industrial workers have joined "the precariat," facing lives of insecurity and stagnating wages. Now, increasing automation has the potential to change who benefits once again.

New forms of automation, including robots and algorithms driven by recent advances in AI, are not just replacing factory workers but increasingly accountants, lawyers and other professional workers. In 2000, Goldman Sachs's New York office employed 600 traders. In 2017, only two equity traders were left, supported by automated

There is also the fact that secure, anonymous, programmable networks could lower the cost of criminal activity. The same protocols that allow for smart contracts to protect the interests of individuals through encryption also allow consortiums to perform illicit activities, such as illegal drug trading, human trafficking, fraud, and more.⁹⁶ Another issue is the accessibility of the technology itself. While bitcoin “wallets” are becoming easier to access and use, few mass or widespread incentives exist for individuals and organizations to accept the switching costs of moving to blockchain-enabled platforms. The lack of abundant platforms and intuitive applications, though they are not far away, poses another barrier.

A Technology for Trust

By Carsten Stöcker, Head, Blockchain Competence Team, innogy SE, Germany, and Burkhard Blechschmidt, Head, CIO Advisory, Cognizant, Germany

Historically, trust was added on to products or transactions as they flowed through the manufacturing supply chain. Physical, or electronic, records trailed every object to prove its origin, destination, quantity and history. Producing, tracking and verifying all this information imposes a massive “trust tax” of time and effort on banks, accountants, lawyers, auditors and quality inspectors.

Important information could be lost, inaccessible or even intentionally hidden.

As the Fourth Industrial Revolution unfolds, blurring the line between the physical and digital worlds, blockchain is emerging to allow digital product memories to follow physical objects and guide

BY DESIGN

based on situational context and to generalize without having to train through vast data pools, but this is not yet possible. New technologies, such as quantum computing, may be able to change how AI applications interrogate problems and learn from feedback loops, potentially mimicking human cognitive appreciation of the world. If so, they could bring economic benefits by eroding human error and taking over synthetic tasks that lead to fatigue.


Even without such breakthroughs, progress is quick and hopes are high. Robots are being developed to travel to Mars, to assist nurses and even to build themselves.¹³¹ Swarms of tiny robots, controlled by AI in the cloud, may someday feed data via AI applications to centralized servers capable of coordinating tasks and deploying resources. AI is already advancing into knowledge-based professions, such as journalism, medicine, accountancy and law. Even if it does not altogether replace lawyers or doctors, AI applications that can synthesize and analyze case studies and diagnostic images will change these professions. And while AI is busy improving itself, robotics' industry spending is set to exceed \$135 billion in 2019, nearly double its 2015 figure.¹³² Not only will vehicles lose their drivers, the vehicles themselves are likely to be built by robots, especially since the automotive industry is the number one buyer of automated robots (Figure 17).¹³³

Figure 17: Number of Multipurpose Industrial Robots (All Types) per 10,000 Employees in the Automotive Industry and in All Others, 2014

fully automatable. Instead, as analysis by AlphaBeta has shown, the biggest impact of AI and robotics on the future of work will be the automation of a range of repetitive or technical tasks, freeing up people's time for more interpersonal and creative work.

10. The impact of AI and robotics depends on how we adopt them. The way that AI and robotics systems are applied by organizations to real-life problems is the primary driver of their impact. This means that, as AI and robotic systems become more powerful and capable, the decision-making processes for boards and managers in determining where and when to use them also rise in importance.

Five key ideas

1. AI has improved rapidly in recent years due to machine-learning techniques that take advantage of the increase in available data, sensors and processing power. Machine learning has reached a level where it is capable of mimicking close to (or better than) human-level interaction in constrained scenarios involving areas such as gameplay, customer service queries, medical diagnostics and the navigation of autonomous vehicles.
 2. Robotic potential has increased in the last decade as AI has begun to power new physical systems. Humans and machines, working together, will likely begin to take over and reduce the number of roles traditionally needed for educated or skilled persons, such as doctors, lawyers, pilots and truck drivers. This is creating concern about the role of human expertise and to what extent human intelligence and judgment will be needed for many tasks that could be given over to automated systems.
- 



The Fourth Industrial Revolution

Klaus Schwab

global economy would return to its previous high-growth pattern was widespread. But this has not happened. The global economy seems to be stuck at a growth rate lower than the post-war average – about 3-3.5% a year.

Some economists have raised the possibility of a “centennial slump” and talk about “secular stagnation”, a term coined during the Great Depression by Alvin Hansen, and recently brought back in vogue by economists Larry Summers and Paul Krugman. “Secular stagnation” describes a situation of persistent shortfalls of demand, which cannot be overcome even with near-zero interest rates. Although this idea is disputed among academics, it has momentous implications. If true, it suggests that global GDP growth could decline even further. We can imagine an extreme scenario in which annual global GDP growth falls to 2%, which would mean that it would take 36 years for global GDP to double.

There are many explanations for slower global growth today, ranging from capital misallocation to over indebtedness to shifting demographics and so on. I will address two of them, ageing and productivity, as both are particularly interwoven with technological progress.

Ageing

The world’s population is forecast to expand from 7.2 billion today to 8 billion by 2030 and 9 billion by 2050. This should lead to an increase in aggregate demand. But there is another powerful demographic trend: ageing. The conventional wisdom is that ageing primarily affects rich countries in the West. This is not the case, however. Birth rates are falling below replacement levels in many regions of the world – not only in Europe, where the decline began, but also in most of South America and the Caribbean, much of Asia including China and southern India, and even some countries in the Middle East and North Africa such as Lebanon, Morocco and Iran.

Ageing is an economic challenge because unless retirement ages are drastically increased so that older members of society can continue to contribute to the workforce (an economic imperative that has many economic benefits), the working-age population falls at the same time as the percentage of dependent elders increases. As the population ages and there

What evidence supports this and what does it tell us about what lies ahead? The early signs point to a wave of labour-substitutive innovation across multiple industries and job categories which will likely happen in the coming decades.

Labour substitution

Many different categories of work, particularly those that involve mechanically repetitive and precise manual labour, have already been automated. Many others will follow, as computing power continues to grow exponentially. Sooner than most anticipate, the work of professions as different as lawyers, financial analysts, doctors, journalists, accountants, insurance underwriters or librarians may be partly or completely automated.

So far, the evidence is this: The fourth industrial revolution seems to be creating fewer jobs in new industries than previous revolutions. According to an estimate from the Oxford Martin Programme on Technology and Employment, only 0.5% of the US workforce is employed in industries that did not exist at the turn of the century, a far lower percentage than the approximately 8% of new jobs created in new industries during the 1980s and the 4.5% of new jobs created during the 1990s. This is corroborated by a recent US Economic Census, which sheds some interesting light on the relationship between technology and unemployment. It shows that innovations in information and other disruptive technologies tend to raise productivity by replacing existing workers, rather than creating new products needing more labour to produce them.

Two researchers from the Oxford Martin School, economist Carl Benedikt Frey and machine learning expert Michael Osborne, have quantified the potential effect of technological innovation on unemployment by ranking 702 different professions according to their probability of being automated, from the least susceptible to the risk of automation ("0" corresponding to no risk at all) to those that are the most susceptible to the risk ("1" corresponding to a certain risk of the job being replaced by a computer of some sort).²³ In Table 2 below, I highlight certain professions that are most likely to be automated, and those least likely.

This research concludes that about 47% of total employment in the US is at risk, perhaps over the next decade or two, characterized by a much broader

scope of job destruction at a much faster pace than labour market shifts experienced in previous industrial revolutions. In addition, the trend is towards greater polarization in the labour market. Employment will grow in high-income cognitive and creative jobs and low-income manual occupations, but it will greatly diminish for middle-income routine and repetitive jobs.

is a well-worn development pathway, allowing countries to accumulate capital, transfer technology and raise incomes. If this pathway closes, many countries will have to rethink their models and strategies of industrialization. Whether and how developing economies can leverage the opportunities of the fourth industrial revolution is a matter of profound importance to the world; it is essential that further research and thinking be undertaken to understand, develop and adapt the strategies required.

The danger is that the fourth industrial revolution would mean that a winner-takes-all dynamic plays out between countries as well as within them. This would further increase social tensions and conflicts, and create a less cohesive, more volatile world, particularly given that people are today much more aware of and sensitive to social injustices and the discrepancies in living conditions between different countries. Unless public- and private-sector leaders assure citizens that they are executing credible strategies to improve peoples' lives, social unrest, mass migration, and violent extremism could intensify, thus creating risks for countries at all stages of development. It is crucial that people are secure in the belief that they can engage in meaningful work to support themselves and their families, but what happens if there is insufficient demand for labour, or if the skills available no longer match the demand?

3.1.3 The Nature of Work

The emergence of a world where the dominant work paradigm is a series of transactions between a worker and a company more than an enduring relationship was described by Daniel Pink 15 years ago in his book *Free Agent Nation*.²⁶ This trend has been greatly accelerated by technological innovation.

Today, the on-demand economy is fundamentally altering our relationship with work and the social fabric in which it is embedded. More employers are using the "human cloud" to get things done. Professional activities are dissected into precise assignments and discrete projects and then thrown into a virtual cloud of aspiring workers located anywhere in the world. This is the new on-demand economy, where providers of labour are no longer employees in the traditional sense but rather independent workers who perform specific tasks. As Arun Sundararajan, professor at the Stern School

of Business at New York University (NYU), put it in a *New York Times* column by journalist Farhad Manjoo: “We may end up with a future in which a fraction of the workforce will do a portfolio of things to generate an income – you could be an Uber driver, an Instacart shopper, an Airbnb host and a Taskrabbit”.²⁷

The advantages for companies and particularly fast-growing start-ups in the digital economy are clear. As human cloud platforms classify workers as self-employed, they are – for the moment – free of the requirement to pay minimum wages, employer taxes and social benefits. As explained by Daniel Callaghan, chief executive of MBA & Company in the UK, in a *Financial Times* article: “You can now get whoever you want, whenever you want, exactly how you want it. And because they’re not employees you don’t have to deal with employment hassles and regulations.”²⁸

For the people who are in the cloud, the main advantages reside in the freedom (to work or not) and the unrivalled mobility that they enjoy by belonging to a global virtual network. Some independent workers see this as offering the ideal combination of a lot of freedom, less stress and greater job satisfaction. Although the human cloud is in its infancy, there is already substantial anecdotal evidence that it entails silent offshoring (silent because human cloud platforms are not listed and do not have to disclose their data).

Is this the beginning of a new and flexible work revolution that will empower any individual who has an internet connection and that will eliminate the shortage of skills? Or will it trigger the onset of an inexorable race to the bottom in a world of unregulated virtual sweatshops? If the result is the latter – a world of the precariat, a social class of workers who move from task to task to make ends meet while suffering a loss of labour rights, bargaining rights and job security – would this create a potent source of social unrest and political instability? Finally, could the development of the human cloud merely accelerate the automation of human jobs?

The challenge we face is to come up with new forms of social and employment contracts that suit the changing workforce and the evolving nature of work. We must limit the downside of the human cloud in terms of possible exploitation, while neither curtailing the growth of the labour market nor preventing people from working in the manner they choose. If we

ethics.

New frontiers in global security

As stressed several times in this book, we only have a limited sense of the ultimate potential of new technologies and what lies ahead. This is no less the case in the realm of international and domestic security. For each innovation we can think of, there will be a positive application and a possible dark side. While neurotechnologies such as neuroprosthetics are already employed to solve medical problems, in future they could be applied to military purposes. Computer systems attached to brain tissue could enable a paralysed patient to control a robotic arm or leg. The same technology could be used to direct a bionic pilot or soldier. Brain devices designed to treat the conditions of Alzheimer's disease could be implanted in soldiers to erase memories or create new ones. "It's not a question of if non-state actors will use some form of neuroscientific techniques or technologies, but when, and which ones they'll use," reckons James Giordano, a neuroethicist at Georgetown University Medical Center, "**The brain is the next battlespace.**"⁵¹

The availability and, at times, the unregulated nature of many of these innovations have a further important implication. Current trends suggest a rapid and massive democratization of the capacity to inflict damage on a very large scale, something previously limited to governments and very sophisticated organizations. From 3D-printed weapons to genetic engineering in home laboratories, destructive tools across a range of emerging technologies are becoming more readily available. And with the fusion of technologies, a key theme of this book, unpredictable dynamics inherently surface, challenging existing legal and ethical frameworks.

Towards a more secure world

In the face of these challenges, how do we persuade people to take the security threats from emerging technologies seriously? Even more importantly, can we engender cooperation between the public and private sectors on the global scale to mitigate these threats?

Over the second half of the last century, the fear of nuclear warfare gradually gave way to the relative stability of mutually assured destruction

Shift 17: The Sharing Economy

The tipping point: Globally more trips/journeys via car sharing than in private cars

By 2025: 67% of respondents expected this tipping point to have occurred

The common understanding of this phenomenon is the usually technology-enabled ability for entities (individuals or organizations) to share the use of a physical good/asset, or share/provide a service, at a level that was not nearly as efficient or perhaps even possible before. This sharing of goods or services is commonly possible through online marketplaces, mobile apps/location services or other technology-enabled platforms. These have reduced the transaction costs and friction in the system to a point where it is an economic gain for all involved, divided in much finer increments.

Well-known examples of the sharing economy exist in the transportation sector. Zipcar provides one method for people to share use of a vehicle for shorter periods of time and more reasonably than traditional rental car companies. RelayRides provides a platform to locate and borrow someone's personal vehicle for a period of time. Uber and Lyft provide much more efficient "taxi-like" services from individuals, but aggregated through a service, enabled by location services and accessed through mobile apps. In addition, they are available at a moment's notice.

The sharing economy has any number of ingredients, characteristics or descriptors: technology enabled, preference for access over ownership, peer to peer, sharing of personal assets (versus corporate assets), ease of access, increased social interaction, collaborative consumption and openly shared user feedback (resulting in increased trust). Not all are present in every "sharing economy" transaction.

Positive impacts

- Increased access to tools and other useful physical resources
- Better environmental outcomes (less production and fewer assets required)
- More personal services available
- Increased ability to live off cash flow (with less need for savings to be able to afford use of assets)
- Better asset utilization
- Less opportunity for long-term abuse of trust because of direct and public feedback loops
- Creation of secondary economies (Uber drivers delivering goods or food)

Negative impacts

- Less resilience after a job loss (because of less savings)
- More contract / task-based labour (versus typically more stable long-term employment)
- Decreased ability to measure this potentially grey economy
- More opportunity for short-term abuse of trust
- Less investment capital available in the system

Unknown, or cuts both ways

- Changed property and asset ownership
- More subscription models
- Less savings
- Lack of clarity on what "wealth" and "well off" mean



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Could an AI ever replace a judge in court?

Will an AI ever replace a judge

Will an AI ever replace a judge

Nov 07, 2017

[Briony Harris](#)

Senior Writer at Formative Content

Share the Article



Xiaofa stands in Beijing No 1 Intermediate People's Court, offering legal advice and helping the public get to grips with legal terminology. She knows the answer to more than 40,000 litigation questions and can deal with 30,000 legal issues. Xiaofa is a robot.

China already has more than 100 robots in courts across the country as it actively pursues a transition to smart justice. These can retrieve case histories and past verdicts, reducing the workload of officials. Some of the robots even have specialisms, such as commercial law or labour-related disputes.

Chinese courts also use artificial intelligence to sift through private messages or comments on social media that can be used as evidence in court. And traffic police are reportedly using facial recognition technology to identify and convict offenders.

But these legal uses for AI are just the beginning of what may be possible in the future.

An aide to judges

China has a civil law system that uses case law to determine the outcome of trials. With just 120,000 judges to deal with 19 million cases a year, it is little wonder the legal system is turning to AI, law firm Norton Rose Fulbright says.

The Supreme People's Court has asked local courts to take advantage of big data, cloud computing, neural networks and machine learning. It wants to build technology-friendly judicial systems and explore the use of big data and AI to help judges and litigants resolve cases.

An application named Intelligent Trial 1.0 is already reducing judges' workloads by helping sift through material and producing electronic



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The application of artificial intelligence in the judicial realm can provide judges with splendid resources, but it can't take the place of the judges' expertise," said Zhou Qiang, the head of the Supreme People's Court, who advocates smart systems.

Eliminating bias?

But recent advances in AI mean the technology can do far more than sifting through vast quantities of data. It is developing cognitive skills and learning from past events and cases.

This inevitably leads to questions as to whether AI will one day make better decisions than humans.

All human decisions are susceptible to prejudice and all judicial systems suffer from unconscious bias, despite the best of intentions.

Algorithms that can ignore factors that do not legally bear on individual cases, such as gender and race, could remove some of those failings.

One of the most important considerations for judges is whether to grant bail and how long prison sentences should be. These decisions are usually dictated by the likelihood of reoffending.

Algorithms are now able to make such decisions by giving an evidence-based analysis of the risks, rather than relying on the subjective decision-making of individual judges.

Despite these obvious advantages, it is far from clear who would provide oversight of the AI and check their decisions are not flawed. And more cautious observers warn that AIs may learn and mimic bias from their human inventors or the data they have been trained with.

Making connections

But AI could also help solve crimes long before a judge is involved. VALCRI, for example, carries out the labour-intensive aspects of a crime analyst's job by wading through texts, lab reports and police documents to highlight areas that warrant further investigation and possible connections that humans might miss.

AIs could also help to detect crimes before they happen. Meng Jianzhu, former head of legal and political affairs at the Chinese Communist Party, said the Chinese government would start to use machine learning and data modelling to predict where crime and disorder may occur.

"Artificial intelligence can complete tasks with a precision and speed unmatched by humans, and will drastically improve the predictability, accuracy and efficiency of social management," Mr Meng said.

Setting a precedent

It is as yet uncertain which of these technologies may become widespread and how different governments and judiciaries will choose to monitor their use.

The day when technology will become the judge of good and bad human behaviour and assign appropriate punishments still lies some way in the future.

However, legal systems often provide ideal examples of services that could be improved, while trials are likely to benefit from better data analysis.

The law often requires a trial to set a precedent – so watch out for the test case of AI as judge.



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Robot justice: China's use of Internet courts

By Tara Vasdani

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Would it scare you if I said that China has been doing this since 2017?

In December 2019, China has announced that millions of legal cases are now being decided by "Internet courts" that do not require citizens to appear in court. The "smart court" includes non-human judges, powered by artificial intelligence (AI) and allows participants to register their cases online and resolve their matters via a digital court hearing.

The Chinese Internet courts handle a variety of disputes, which include intellectual property, e-commerce, financial disputes related to online conduct, loans acquired or performed online, domain name issues, property and civil rights cases involving the Internet, product liability arising from online purchases and certain administrative disputes. In Beijing, the average duration of a case is 40 days; the average dispositive hearing lasts 37 minutes; almost 80 per cent of the litigants before the Chinese Internet courts are individuals, and 20 per cent corporate entities; and 98 per cent of the rulings have been accepted without appeal.

It is 2020. Your Canadian commercial dispute is paperless. A document management platform sifts through all parties' documents to flag relevant vs. non-relevant documents. A subsequent platform reviews the relevant documents, and tells you that your case has the stronger evidentiary background.

A legal research tool in the meantime is determining whether a shareholder may attract wages for services performed, or simply be paid dividends. It's time to move to summary judgment. An Online Dispute Resolution (ODR) tool reviews your motion materials, your Affidavit (e-signed) and the Responding Record. An AI judge flags a case from 1970 that still applies today and — you win your dispute. The decision can be appealed to a human judge.

Cost savings? Astronomical. A preliminary decision? Within one month. The AI judge's eye for 1970 case law? Well, he's not hungry or tired like your articling student.

China's first Internet court was established in the eastern city of Hangzhou in 2017 and in 2019, it was reported that users completed more than 3.1 million legal activities using the court system from March

through to October. More than one million citizens were registered with the system, along with approximately 73,000 lawyers.

Judicial officials recently invited reporters to the Hangzhou Internet court to see how it operates. In a demonstration, citizens were seen using video messaging to communicate with the AI judges, and the following was observed:

"Does the defendant have any objection to the nature of the judicial blockchain evidence submitted by the plaintiff?" a virtual judge asked during a pretrial meeting. The non-human judge was represented in the system by an image of a man wearing a black robe.

"No objection," the human plaintiff answered.

The judges "appeared" by hologram and are artificial creations — there is no real judge present. The holographic judge looks like a real person but is a synthesized, 3D image of different judges, and sets schedules, asks litigants questions, takes evidence and issues dispositive rulings.

A Hangzhou court official told China's state-run CGTN television network that the Internet court system operates 24 hours a day, seven days a week.

In today's marketplace where almost everything is purchased or transacted online, the potential for this type of court system is significant.

In a previous article (<https://www.thelawyersdaily.ca/articles/11582/estonia-set-to-introduce-ai-judge-in-small-claims-court-to-clear-court-backlog->), I commented on Estonia's adoption of an AI judge to settle small claims disputes. Prior to that, I commented on the Ontario Superior Court of Justice's pilot project launched on Feb. 11, 2019, the Digital Hearing Workspace (<https://www.thelawyersdaily.ca/articles/10192/digital-hearing-workspace-pilot-project-one-step-closer-to-court-modernization->) (DHW). The program is currently used to deliver, store, organize and retrieve all documents relevant to a file, electronically. It applies to all Commercial List proceedings, and failure to upload documents to the platform is addressed by a presiding court official.

Combined with an ODR system or AI-powered judges, and considering the backlog of civil and commercial disputes experienced by litigants in Canada, the idea of an AI judge seems to resolve many current issues. And it is not too far from our midst.

The U.S. recently forecasted a time when AI-driven legal assistants might be presenting judges with case law, precedents and the background needed to make a decision. Hear that? Legal assistants.

In 2019, I reviewed a very helpful, and very vanguard legal research AI tool championed by the Toronto-based company, Alexsei.

Tools such as Alexsei use machine learning to identify relevant and up-to-date case law across the web and

scan the Internet to discern lawyers' opinions on cases as identified in their legal blogs. The software then generates a legal memorandum within 24 hours of being asked a legal research question.

China, or Estonia as I reported in 2019, are not the first to mix AI and the law. In the United States, algorithms assist in recommending criminal sentences. The widely popular U.K.-based app DoNotPay, an AI-driven chatbot, overturned 160,000 parking tickets in London and New York a few years ago.

The international deployment of Internet courts is just another step in the saga of the eventual automation of certain legal tasks and processes.

Taken in harmony, the last year in Canada alone saw the adoption of directives within the federal government regarding AI's replacement of mundane administrative tasks; judges' reprisal for the failure to use legal research AI tools to assist in conducting research and saving client legal fees; the DHW, requiring counsel and parties to upload their documents to an electronic filing system; and my personal favourite, Google's Duplex which I hope will arrive into our industry soon.

All in all, I repeat, adopt and reiterate that the legal industry's resistance to the above changes will create great hurdles to lawyers and their staff alike. Modern judiciaries have already begun to expect the employ of legal tech tools by counsel, students and the courts. Should lawyers choose not to live up to the challenge, they could end up with a very disappointed client, potentially large and assessment-worthy client cost consequences and since 2017, an algorithm's reprisal.

Tara Vasdani is the principal lawyer and founder of Remote Law Canada (<https://www.remotelawcanada.com/>). Her practice centres on employment law, civil litigation and remote work. She has been featured in Forbes. She was the first Canadian lawyer to serve a statement of claim via Instagram, and you can reach her directly at tara@remotelawcanada.com (<mailto:tara@remotelawcanada.com>).

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**THE
GREAT
NARRATIVE**

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(4) The strong and rapid emergence of cryptocurrencies, and more broadly fintech, entangles economics with technological innovation in such a complex way that it makes it hard to identify how the causality runs and what some of the potential applications and policy implications might be. Analysts and media reports give the impression that national currencies already compete with cryptocurrencies since individuals and institutions can hold digital wallets with whichever crypto asset they chose. As Parag Khanna states:

We are about to enter an age of global monetary competition, where national currencies must earn their place in someone's wallet portfolio every hour of every day, even among citizens of their own countries. The digital version of the Japanese yen will be plunged into head-to-head global competition with the Swiss franc, the Brazilian real, and any other asset with an open capital account, including Bitcoin. Everyone becomes a foreign-exchange trader, all the time, and only the best national currencies – or cryptocurrencies – are ever held by anyone.³⁴

Elimination of fiat B to fructifiable
more coins at the pleasure of banks

It might be that government-supported cryptocurrencies compete with each other, as hinted at by Khanna. If they do so, they'd blur the line with fiat money and would change the financial system in terms of financial stability and traditional monetary policy in a way that nobody can yet predict.

Currently, both monetary authorities and private institutions issue cryptocurrencies as viable, mainstream payment vehicles. Central banks and governments experiment with "govcoins", or Central Bank Digital Currencies, while private "sponsors" develop "stablecoins" – cryptocurrencies whose value is pegged to the value of an underlying asset. The trajectory and endgame for govcoins and stablecoins remain unknown, but their respective fates may ultimately be decided by adoption and above all regulation (the power of the state). The only certainty: their economic, societal and possibly geopolitical impacts will be considerable. Will physical cash still be accepted? Will cryptocurrencies pervade our privacy? How will they redefine the role of technology in our daily lives? What will their impact be on the effectiveness of monetary policy? Could they foster greater financial inclusion? Could cryptocurrencies advance environmental objectives and the policies that support them? Could they be used to accelerate the demise of the US dollar? Will

They predict it, they plan it in their agendas

The elimination of the dollar is discussed in other WEF documents (2)

future. Their original ideas translate into narratives that produce models which in turn influence behaviour and help construct the future. Ultimately, they become instruments of policy and project market power. By way of demonstration, four innovative projects, or sets of projects, are described, all different from each other but all pertaining to the environmental sector (this macro category was chosen arbitrarily because it is where the stakes are the highest). Just a few years ago, all these ventures were unknown or in their infancy. Now, they are a collective testimony to the power of imagination of those who conceived them.

(1) Network for Greening the Financial System and beyond: Imagining new policies

The Network for Greening the Financial System (NGFS) is a group of 91 central banks and supervisors committed to mobilizing mainstream finance to support the transition towards a sustainable economy. It is investigating many bold financial innovations¹¹⁷ that could (and most likely will) one day revolutionize the way in which climate-related risks are accounted for in central banking and banking supervision. In short, alongside governments (which have a much broader and more effective range of tools and policies available to prevent and mitigate climate-related risks), central banks will adapt their monetary policy operational frameworks to reflect climate-related risks. This will involve the mitigation of balance sheet risks that stem from climate change and environmental degradation, but also the active support of the transition to a non-carbon, green economy. Imagining what form this might take and devising policy tools and instruments to get there is the task of the NGFS, and largely depends on how climate risks will affect the economy and financial system through a range of different transmission channels.¹¹⁸ The menu of options available is extensive and encompasses changes in all three most important policy fields of a central bank: credit operations, collateral policies and asset purchases. It is not the purpose of this book to delve into the technicalities of what this involves¹¹⁹ but, suffice to say, some of the options represent a radical departure from standard central bank operational policies. They are, in short, the product of central bankers' imagination.

Some ideas go into uncharted territory, well beyond the scope of what the NGFS is devising in terms of possible policies. Creating "carbon quantitative easing" policies is one of them. It's a novel, untested and somewhat outlier

The rule of law is the "product of the bankers' imagination" when bankers gain more & the worse off we are. This is terribly horrible.